

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Allyson C. Bergin, *Personal  
Personal Representative of the  
Estate of Molly A. McKenzie,*

Plaintiff,

V.

4 Aces Kitchen & Bar, LLC *d/b/a*  
4 Aces Kitchen & Cocktails,

Defendant.

Case No. 6:23-cv-02691-JDA

## ORDER AND OPINION

This matter is before the Court on Defendant's partial motion to dismiss seeking dismissal of Plaintiff's claims for defamation and invasion of privacy. [Doc. 47.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Kevin McDonald for pre-trial proceedings.

On July 30, 2024, the Magistrate Judge issued a Report recommending that the partial motion to dismiss be denied. [Doc. 54.] The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do. [*Id.* at 12.] Neither party has filed objections and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71

(1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, the partial motion to dismiss [Doc. 47] is DENIED.

IT IS SO ORDERED.

s/Jacquelyn D. Austin  
United States District Judge

Greenville, South Carolina  
August 14, 2024